

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CRIMINAL NO. 1:09CR33**

**UNITED STATES OF AMERICA** )  
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**VS.**                            )  
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**WILLIAM HOWARD O'NEIL, JR.** )  
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**ORDER**

**THIS MATTER** is before the Court on Defendant's motions to continue the trial from the July 2009 term, to stay further proceedings herein pending adjudication of Defendant's appeal in a related case, and for a peremptory trial setting. The Government joins in the Defendant's motions to continue and to stay and files its own motion for a peremptory setting.

The Court finds for the reasons stated in Defendant's motion to continue and upon a showing that failure to grant such a motion would result in a miscarriage of justice, the Court will allow the continuance. **18 U.S.C. § 3161(h)(8)(B)(i).** The Court further finds that the ends of justice

served by taking such action outweigh the best interest of the public and the Defendant to a speedy trial.

As for the Defendant's motion to stay further proceedings herein, counsel does not cite any statutory authority or case law that permits a court to stay criminal proceedings. Although it appears that proceeding with this case before the related matter is addressed by the Fourth Circuit could result in a miscarriage of justice, counsel should consider filing appropriate motions to continue until the appeal has been adjudicated. Because the Court will continue this case from the July calendar, the parties' respective motions for peremptory setting are now moot.

**IT IS, THEREFORE, ORDERED** that the Defendant's motion to continue is **ALLOWED** and this case is hereby continued from the July 2009 term in the Asheville Division.

**IT IS FURTHER ORDERED** that the Defendant's motion to stay is **DENIED**.

**IT IS FURTHER ORDERED** that the parties' respective motions for peremptory setting are **DENIED** as moot.

Signed: July 1, 2009



Lacy H. Thornburg  
United States District Judge

